

Table of Contents

U.S. Senate

Date: Wednesday, July 1, 2020

Committee on Environment
and Public Works

Washington, D.C.

STATEMENT OF:

PAGE:

THE HONORABLE JOHN BARRASSO, A UNITED STATES
SENATOR FROM THE STATE OF WYOMING

3

THE HONORABLE THOMAS R. CARPER, A UNITED STATES
SENATOR FROM THE STATE OF DELAWARE

6

BUSINESS MEETING

WEDNESDAY, JULY 1, 2020

United States Senate

Committee on Environment and Public Works

Washington, D.C.

The committee met, pursuant to notice, at 9:48 a.m. in room 106, Dirksen Senate Office Building, the Honorable John Barrasso [chairman of the committee] presiding.

Present: Senators Barrasso, Carper, Inhofe, Capito, Cramer, Braun, Rounds, Sullivan, Boozman, Wicker, Shelby, Ernst, Whitehouse.

Senator Barrasso. I call this business meeting to order.

Today, we are going to consider three nominations and 27 General Services Administration resolutions. Senator Carper and I have agreed that we will begin voting at 9:55, and at that time, we will call up the items on the agenda. We will not debate the items on the agenda while we are voting; instead, we will debate these items before we vote.

I am also happy to recognize any members who wish to speak after the voting concludes.

The three nominations we will consider are: Katherine Crytzer to be Inspector General of the Tennessee Valley Authority; Beth Harwell and Brian Noland to be Members of the Board of Directors of the Tennessee Valley Authority.

I had also planned to consider the nomination of Douglas Benevento to be the Deputy Administrator of the Environmental Protection Agency. Mr. Benevento is well-qualified and would have made a good Deputy Administrator.

On Friday, Senator Ernst expressed her opposition to moving this confirmation forward. While I strongly disagree with Senator Ernst on the Renewable Fuel Standard, her longstanding position on the side of Iowa corn farmer will not be overcome in this case. This committee will therefore not be taking up Mr. Benevento's nomination.

Turning to the Tennessee Valley Authority nominations, the

Subcommittee on Clean Air and Nuclear Safety held a hearing on the nominees in May. I would like to thank the Chairman of Subcommittee, Senator Braun, for holding his hearing and assisting the full committee in considering these nominations.

President Trump nominated Ms. Katherine Crytzer to serve as the Inspector General of the Tennessee Valley Authority. She currently serves as the Acting Deputy Assistant Attorney General in the Office of Legal Policy at the U.S. Department of Justice. She previously served as an Assistant U.S. Attorney, where she led teams of agents, investigators and auditors in fraud investigations and prosecutions. Ms. Crytzer received the Attorney General's award for distinguished service in 2019.

President Trump has also nominated Beth Harwell and Brian Noland to serve as Members of the Board of Directors of the Tennessee Valley Authority. Dr. Harwell is a Visiting Professor at Middle Tennessee State University. She was the first ever speaker of the house of representatives for the State of Tennessee.

Mr. Noland is President of East Tennessee State University. He previously served as chancellor of the West Virginia Higher Education Policy Commission, responsible for developing and implementing the public policy agenda for higher education in West Virginia.

Each of the three nominees is well qualified and will bring

a wealth of experience and expertise to the position that they have been nominated for.

Lastly, we will consider 27 Resolutions to approved prospectuses providing for General Services Administration leases. These prospectuses will allow agencies to consolidate space, resulting in increased efficiency and fiscal responsibility.

We will now turn to Ranking Member Carper for his opening statement.

[The prepared statement of Senator Barrasso follows:]

STATEMENT OF THE HONORABLE THOMAS R. CARPER, A UNITED STATES
SENATOR FROM THE STATE OF DELAWARE

Senator Carper. Thanks, Mr. Chairman. Happy to be here with all of you here to celebrate Joni's birthday. Happy birthday, Joni, we are happy for you and for us.

Good morning, everybody. Mr. Chairman, I am happy that our committee is considering three individuals to fill offices at the TVA, the Tennessee Valley Authority, 27 prospectus resolutions for the General Services Administration. As our Nation's largest public power system, TVA provides power to more than 9 million households across seven States, and supports economic development throughout the Tennessee Valley.

In creating the nine-member board of directors for TVA, Congress aimed to ensure each board member will support the mission of TVA, including being "a national leader in technology, innovation, low-cost power, and environmental stewardship." That is a direct quote.

I am pleased to support Dr. Brian Noland, who is President of East Tennessee State University, to be a board member. I believe his considerable experience will serve the TVA well. After careful deliberation, I have also decided to support Dr. Beth Harwell's nomination to the TVA Board. I initially had concerns about her views on climate science; however, during a second private conversation last week, Dr. Harwell confirmed

that she understands that climate change is real, is primarily caused by human activity, and that she is committed to advancing TVA's leadership in producing low-carbon emission electricity for the residents of the Tennessee Valley.

Those comments and affirmations were confirmed by our colleague from Tennessee, Lamar Alexander, who apparently was involved in encouraging Beth Harwell to seek elective office many, many years ago. So with that commitment, double commitment from Beth Harwell, I will support her nomination.

As for our nominee to be Inspector General of the TVA, Catherine Crytzer, sadly, I find myself in a position of being unable to support her nomination today. Within the past year, this committee has unanimously voted in support of two well qualified IG nominees for EPA, and the Nuclear Regulatory Commission. Both individuals had served almost two decades as nonpartisan federal prosecutors.

By contrast, Ms. Crytzer has only had three years of experience as a federal prosecutor. Ms. Crytzer's most recent experience at the Department of Energy has been within the Office of Legal Policy, where she has worked in a far more political and ideologically driven capacity. This kind of work historically is generally not appropriate for an inspector general nominee, since what the law requires is someone who is free from political bias.

At no time in our Nation's history has the need for independent inspectors general been as profound. Over the past several months, our President has unceremoniously removed, reassigned, and undermined inspectors general who have dared to conduct oversight on the President and his Administration.

The President fired the Intelligence Community Inspector General for lawfully informing Congress about the existence of the Ukraine whistleblower complaint. He replaced the HHS Inspector General for issuing a report on health supply shortages during the ongoing pandemic. He fired the State Department Inspector General for investigating the Administration's arms sales to Saudi Arabia and Secretary Pompeo's use of government staff to do personal errands.

The President also replaced the Defense Department's Acting Inspector General to prevent him from serving as Chair of the Pandemic Response Oversight Committee.

It is in this context that we are considering Ms. Crytzer's nomination. Unfortunately, in her confirmation process, Ms. Crytzer has failed to demonstrate that she will serve independently of President Trump. During and after her hearing, Ms. Crytzer failed to answer simple questions about whether the President's statements and actions directed towards existing Inspectors General were appropriate. She would not state that it is wrong for a President to fire an IG simply because the IG

was conducting independent oversight.

She would not state that it is wrong for a President to tweet accusations of bias or incompetence at Inspectors General who dare to criticize the Administration. She would not even state that she would have signed a letter that dozens of IGs, including the current acting Inspector General at the TVA, all signed. That letter expressed their concern that the Justice Department issued a legal opinion overruling the Intelligence Community IG's decision to inform Congress of the existence of the credible Ukraine whistleblower complaint.

Finally, when Ms. Crytzer was asked whether she had answered our questions for the record on her own, she informed us that she submitted her responses to the White House for review prior to delivering them to the Committee. If an Inspector General nominee cannot act independently in responding to questions during a confirmation process, how can we trust her or him to act independently once they are in the job?

Agreeing to install a partisan inspector general would be unacceptable for a wide range of reasons under any circumstance. But I think it is especially unacceptable under this Administration.

I will end with this. Today, the Committee will approve a number of GSA prospectus resolutions. Several of these are related to the Federal Bureau of Investigation, something that a

couple of our colleagues on this committee from Maryland have a special interest in. The GSA has still not sent to this committee a prospectus for the FBI Headquarters project.

Mr. Chairman, I would just say in closing, I want to thank you and I want to thank your staff for working to include language in the FBI prospectuses that makes clear that the facilities we are approving today cannot facilitate the relocation of multiple FBI personnel from the D.C. area FBI headquarters until a new prospectus for FBI headquarters is approved.

And with that, Mr. Chairman, I look forward to a brief business meeting this morning.

I thank you, and salute our birthday girl. Happy birthday, Joni.

[The prepared statement of Senator Carper follows:]

Senator Barrasso. Now that we have enough members present, I would like to call up Presidential Nomination 1716, Catherine Crytzer of Tennessee, to be Inspector General of the Tennessee Valley Authority. I move to approve and report the nomination favorably to the Senate. Is there a second?

Senator Shelby. Second.

Senator Barrasso. The Clerk will call the roll.

The Clerk. Mr. Booker?

Senator Carper. No by proxy.

The Clerk. Mr. Boozman?

Senator Boozman. Yes.

The Clerk. Mr. Braun?

Senator Braun. Yes.

The Clerk. Mrs. Capito?

Senator Capito. Aye.

The Clerk. Mr. Cardin?

Senator Carper. No by proxy.

The Clerk. Mr. Carper.

Senator Carper. No.

The Clerk. Mr. Cramer?

Senator Cramer. Aye.

The Clerk. Ms. Duckworth?

Senator Carper. No by proxy.

The Clerk. Ms. Ernst?

Senator Ernst. Aye.

The Clerk. Ms. Gillibrand?

Senator Carper. No by proxy.

The Clerk. Mr. Inhofe?

Senator Inhofe. Aye.

The Clerk. Mr. Markey?

Senator Carper. No by proxy.

The Clerk. Mr. Merkley?

Senator Carper. No by proxy.

The Clerk. Mr. Rounds?

Senator Rounds. Aye.

The Clerk. Mr. Sanders?

Senator Carper. No by proxy.

The Clerk. Mr. Shelby?

Senator Shelby. Aye.

The Clerk. Mr. Sullivan?

Senator Sullivan. Aye.

The Clerk. Mr. Van Hollen?

Senator Carper. No by proxy.

The Clerk. Mr. Whitehouse?

Senator Whitehouse. No.

The Clerk. Mr. Wicker?

Senator Wicker. Aye.

The Clerk. Mr. Chairman?

Senator Barrasso. Aye. Clerk will report.

The Clerk. Mr. Chairman, the ayes are 11, the nays are 10.
We have approved Presidential Nomination 1716, which will be reported favorably to the Senate.

I would now like to call up Presidential Nomination 1609, Beth Harwell of Tennessee to be a member of the Board of Directors of the Tennessee Valley Authority. I move to approve and report the nomination favorably to the Senate. Is there a second?

Senator Shelby. Second.

Senator Barrasso. The Clerk will call the roll.

The Clerk. Mr. Booker?

Senator Carper. No by proxy.

The Clerk. Mr. Boozman?

Senator Boozman. Yes.

The Clerk. Mr. Braun?

Senator Braun. Yes.

The Clerk. Mrs. Capito?

Senator Capito. Yes.

The Clerk. Mr. Cardin?

Senator Carper. No by proxy.

The Clerk. Mr. Carper.

Senator Carper. No.

The Clerk. Mr. Cramer?

Senator Cramer. Aye.

The Clerk. Ms. Duckworth?

Senator Carper. No by proxy.

The Clerk. Ms. Ernst?

Senator Ernst. Aye.

The Clerk. Ms. Gillibrand?

Senator Carper. No by proxy.

The Clerk. Mr. Inhofe?

Senator Inhofe. Aye.

The Clerk. Mr. Markey?

Senator Carper. Mr. Markey votes no by proxy.

The Clerk. Mr. Merkley?

Senator Carper. No by proxy.

The Clerk. Mr. Rounds?

Senator Rounds. Aye.

The Clerk. Mr. Sanders?

Senator Carper. No by proxy.

The Clerk. Mr. Shelby?

Senator Shelby. Aye.

The Clerk. Mr. Sullivan?

Senator Sullivan. Aye.

The Clerk. Mr. Van Hollen?

Senator Carper. No by proxy.

The Clerk. Mr. Whitehouse?

Senator Whitehouse. Aye.

The Clerk. Mr. Wicker?

Senator Wicker. Aye.

The Clerk. Mr. Chairman?

Senator Barrasso. Aye. The Clerk will report.

The Clerk. Mr. Chairman, the yeas are 13, the nays are 8.

Senator Barrasso. The yeas are 13, the nays are 8. We have approved Presidential Nomination 1609, which will be reported favorably to the Senate.

I would now like to call up Presidential Nomination 1610, Brian Noland of Tennessee, to be a Member of the Board of Directors of the Tennessee Valley Authority, and the 27 General Services Administration Resolutions en bloc. I move to approve and report Presidential Nomination 1610 favorably to the senate, and approve 27 GSA Resolutions en bloc.

Is there a second?

Senator Carper. I second.

Senator Barrasso. All those in favor, say aye?

[Chorus of ayes.]

Senator Barrasso. Opposed, nay?

[No audible response.]

Senator Barrasso. In the opinion of the Chair, the ayes have it. We have approved Presidential Nomination 1610, which will be reported favorably to the Senate. We have also approved

27 GSA Resolutions.

With that, the voting part of the business meeting is finished, but I would be happy to recognize any member of the committee who wishes to make any statement with regard to any of the nominations or resolutions that we have just approved.

Senator Ernst. Mr. Chairman?

Senator Barrasso. Senator Ernst.

Senator Ernst. Thank you, Mr. Chair.

Senator Barrasso, thank you very much for the time you took last week to speak with me regarding EPA nominee Doug Benevento. I know that we adamantly disagree on the Renewable Fuels Standard, but I do sincerely appreciate your acknowledging my work on behalf of Iowa's farmers and our biofuels industry.

One of the biggest concerns I am hearing from not only Iowa's biofuel producers, but also our farmers, is the constant uncertainty brought forth by the EPA on the Renewable Fuels Standard. Every time it seems like there will be some certainty in the program, the EPA announces something new. And just what we have seen in this past week, something new like putting in jeopardy the livelihoods of Iowa farmers and producers with these new 52 petitions going back years, all the way back to 2011.

I spoke with Administrator Wheeler about this very issue last week, and I asked him how suddenly in the year 2020,

refiners could experience a change of circumstances, prompting them to apply for hardships back in 2011 and 2012 and 2013. This just doesn't add up.

And frankly, Administrator Wheeler was not able to explain to me how he planned to handle these never, ever seen before gap waivers.

Mr. Chairman, folk back in Iowa need some certainty, and they are tired of this Administration vowing to support them, only for the EPA to yank the run out from under them with the next announcement. For that reason, until the EPA tell us what they plan to do with these new petitions, I will not be able to support the nomination of Mr. Benevento, or any other EPA nominees.

Thank you, Mr. Chair.

Senator Barrasso. Thank you, Senator Ernst.

Would any other members like to make a statement at this time?

If not, I do have a letter that I do want to introduce into the record. It is about Ms. Crytzer, who has received very high praise from numerous high-ranking officials who served in President Obama's Justice Department, two U.S. Attorneys, chiefs of the criminal, civil and fraud divisions, 18 Assistant U.S. Attorneys, and numerous other officials have written in support of this nomination.

Just to quote: "Katie's integrity, work ethic, intellect and character will make her an outstanding addition to the Tennessee Valley Authority and the Inspector General community. Throughout her cases, Katie consistently demonstrated that she was fair, thoughtful and objective." I ask unanimous consent to enter this into the record.

Senator Capito. Mr. Chairman?

Senator Capito. Sorry. Didn't mean to interrupt. Can I just make a quick statement?

Senator Barrasso. Without objection, those will be entered.

[The referenced information follows:]

Senator Capito. I just wanted to add my congratulations to Dr. Brian Noland, who just was voted onto the Board of Directors of the TVA. He served in West Virginia in higher education with distinction. He did a great job. We were sorry to lose him back to Tennessee, and I know he will fulfill his obligations with the highest quality standards as he did while he was in West Virginia. I just want to say congratulations to him and his family.

Thank you.

Senator Barrasso. Thank you, Senator Capito.

So I ask unanimous consent at this time that the staff have authority to make technical and conforming changes to each of the matters approved today. Without objection, it is done.

With that, our business meeting is concluded.

[Whereupon, at 10:05 a.m., the committee proceeded to other business.]